

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

VIJAY K. VIG,)	Civil Action File No.
)	1:11-cv-4487-WSD
Plaintiff,)	
)	
v.)	
)	
DR. SATPAL K. SHIKH, CEO and)	
60% shareholder of All Care)	
Dental, P.C.)	
Defendant.)	

MOTION TO DISMISS

COMES NOW, Defendant and moves to dismiss this case pursuant to
F.R.C.P. 12(b)(6) for failure to state a claim.

Respectfully submitted,

/s/ Ralph Goldberg
Ralph Goldberg
Ga. Bar No. 299475
Attorney for Plaintiffs

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60% shareholder of All Care)	
Dental, P.C.)	
Defendant.)	

BRIEF IN SUPPORT OF MOTION TO DISMISS

In paragraph 1 of his amended complaint Plaintiff alleges that he worked 7 days a week 8-16 hours a day or longer as co-manager. He alleges in paragraph 14 “Plaintiff managed the clinic and the labs with little help from Defendants.” He alleges the parties were married. He alleges Defendant Shikh was CEO and owner of 60% shares.

In Patel v. Wargo, 803 F.2d 632 (11th Cir. 1986) the Court noted,

Most cases finding corporate officers’ liable for FLSA violations have involved company-wide underpayment of large numbers of workers.

638¹ Given that Plaintiff has pled at 14,

Plaintiff managed the clinics and the labs with little help for Defendants. Defendant “Dr. Shikh”

¹ Defendant Wargo was “the principal stockholder of Pine World.” Id. at 637.

handled clinical dental operations with hygiene tasks performed by Plaintiff....

it seems clear that he was the manager and ran everything but the actual practice of dentistry. In the words of Patel, Plaintiff has alleged he had “operational control.” Plaintiff has not alleged that Defendant Shikh hired or fired. See Ojeda-Sanchez v. Bland Farms, LLC, 2010 WL 3282984 (S.D. Ga. 2010).

Dr. Shikh should be dismissed.

Respectfully submitted,

/s/ Ralph Goldberg
Ralph Goldberg
Ga. Bar No. 299475
Attorney for Plaintiffs

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Plaintiff,)	
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v.)	
)	
ALL CARE DENTAL P.C.,)	
a Georgia Professional Corporation,)	
)	
DR. SATPAL K. SHIKH, CEO and)	
60% shareholder of All Care)	
Dental, P.C.)	
Defendants.)	

CERTIFICATE OF SERVICE

This is to certify that on this day counsel of record for the opposing party in the foregoing matter was served with a copy of this document by electronic filing and/or by depositing in the United States Mail copies of the same in properly addressed envelopes with adequate postage thereon.

Vijay K. Vig
P.O. Box 1535
Decatur, GA 30033

[SIGNATURE ON NEXT PAGE]

This 4th day of May, 2012.

/s/ Ralph Goldberg
Ralph Goldberg
Ga. Bar No. 299475
Attorney for Plaintiffs

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